

1 FILED  
2  
3  
4  
5  
6  
7

2009 DEC 28 AM 10:08

3 CLERK US DISTRICT COURT  
4 SOUTHERN DISTRICT OF CALIFORNIA  
5  
6

7 BY hkn DEPUTY  
8  
9

10  
11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA  
13  
14

15 ROBBIE MARTIN,

CASE NO. 08CV2203 BEN (BLM)

16 vs. Petitioner,

17 JAMES A. YATES, Warden,  
18 ORDER ADOPTING REPORT  
19 Respondent.  
20 AND RECOMMENDATION  
21  
22

23 Petitioner Robbie Martin, a state prisoner proceeding pro se, petitions for a writ of  
24 habeas corpus under 28 U.S.C. § 2254. Dkt. No. 1. Respondent filed an answer. Dkt. No. 8.  
25 Petitioner did not file a traverse.<sup>1</sup>

26 On August 27, 2009, the Honorable Magistrate Judge Barbara L. Major issued a Report  
27 and Recommendation, recommending that the petition be denied with prejudice. Dkt. No. 13.  
28 Any objections to the Report and Recommendation were due September 18, 2009. *Id.*  
29 Petitioner did not file any objections or request an extension of time to file objections. For the  
30 reasons stated below, the Court ADOPTS the well-reasoned Report and Recommendation of  
31 the Magistrate Judge and DENIES WITH PREJUDICE Petitioner's petition.

32 //

33 //

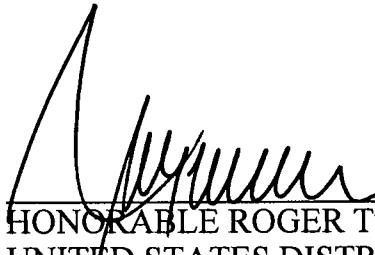
34  
35 <sup>1</sup>The Court notes that Petitioner did not file a traverse despite the Magistrate Judge granting  
36 Petitioner a 90-day extension of time in which to file the traverse. Dkt. No. 11.

1 A district judge "may accept, reject, or modify the recommended disposition" of a  
2 Magistrate Judge on a dispositive matter. FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C.  
3 §636(b)(1). "[T]he district judge must determine de novo any part of the [report and  
4 recommendation] that has been properly objected to." FED. R. CIV. P. 72(b)(3). However,  
5 "[t]he statute makes it clear that the district judge must review the magistrate judge's findings  
6 and recommendations de novo *if objection is made*, but not otherwise." *United States v.*  
7 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*), *cert denied*, 540 U.S. 900 (2003)  
8 (emphasis in original); *see also* *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005).  
9 "Neither the Constitution nor the statute requires a district judge to review, de novo, findings  
10 and recommendations that the parties themselves accept as correct." *Reyna-Tapia*, 328 F.3d  
11 at 1121.

12 In the absence of any objections, the Court **ADOPTS** the Report and Recommendation  
13 in its entirety and **DENIES WITH PREJUDICE** Petitioner's petition for writ of habeas  
14 corpus. The Clerk shall close the file.

15  
16 **IT IS SO ORDERED.**

17 DATED: 12/25/09

18  
19   
HONORABLE ROGER T. BENITEZ  
UNITED STATES DISTRICT JUDGE

20  
21  
22  
23  
24  
25  
26  
27  
28